

Several of the federal statutes that prohibit discrimination also prohibit retaliation against those who oppose discrimination or participate in proceedings aimed at addressing discrimination. Other federal statutes that prohibit discrimination do not explicitly prohibit retaliation, but the Court has determined that these statutes address retaliation as a form of discrimination. Retaliation, and the threat of retaliation, is frequently utilized as a means of discouraging those who believe they are a victim of discrimination from reporting such discrimination. Without courageous individuals willing to report discrimination, enforcement of the statutes that prohibit discrimination becomes less likely.

After a review of the federal statutes that address retaliation, either directly or as a form of discrimination, as well as the First Amendment as a potential source of protection for those who report discrimination, this Article encourages educational institutions to take a bold step and invite students, faculty, staff, and administrators to report discrimination. This approach is fitting for colleges and universities because it promotes the free exchange of ideas and it communicates an institution's commitment to actual equality. All of the institution's constituents should be encouraged to take an active role in helping it to address discrimination and achieve actual equality. For most institutions, this represents a substantial change in the culture.